



# Department for Transport

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Mr Ian Campbell



Dear Mr Campbell,

Thank you for your letter to Robert Goodwill MP at the Department for Transport (DfT), also copied to Theresa May MP, seeking clarification about footway parking. Your letter was passed to Traffic Division and I have been asked to reply.

I would first like to point out that the DfT is unable to give legal advice on specific cases, as only the courts or the parking adjudicator can interpret the law. If you need legal advice, you need to seek an independent legal advisor.

I have noted your concerns and appreciate that parking on the pavement can cause serious problems for pedestrians, particularly people in wheelchairs or with visual impairments, and those with prams or pushchairs. Indiscriminate pavement parking may also damage the footway, with the burden of repair costs normally falling on local authority maintenance budgets.

I can confirm that whilst in London, there is a general ban on parking on the footway, in the rest of England there is no such prohibition. However, local authorities outside London have wide-ranging powers under sections 1 and 2 of the Road Traffic Regulation Act 1984 to make Traffic Regulation Orders (TROs) to prohibit pavement parking on designated lengths of highway or over a wide area. Such pavement parking bans outside London would need to be appropriately signed so that motorists are aware that the restriction is in operation. In areas where the local authority has obtained Civil Parking Enforcement (CPE) powers, Civil Enforcement Officers can enforce pavement parking bans on designated highways by issuing Penalty Charge Notices (PCNs). Where the local authority does not have CPE powers, the police are responsible for parking enforcement. If the police do not have the resources to undertake traffic management duties, the council has the option to apply to the Secretary of State for CPE powers.

In February 2011, the then Transport Minister, Norman Baker wrote to all local authorities outside London prompting them to use their powers to prevent parking on the pavement where it is a problem. In conjunction with this letter and as part of the Department's review of the current traffic signs regulations (i.e. the Traffic Signs Regulations and General Directions 2002, TSRGD), a special signs authorisation was issued on 18 February 2011

to local authorities in England (outside London) so that the requirement for individual sign authorisation will no longer exist, making it easier for local authorities to enforce pavement parking.

A further authorisation was issued on 5 March 2012 to empower highway authorities to erect signs as and where necessary, banning footway parking. This can be used in a single street or in an entire neighbourhood or local authority area. Therefore, if a local authority, wants to control or ban footway parking in their area, the means to do so are very much available to them. However, I must stress that only the Council can decide whether or not to ban footway parking, and I would therefore suggest that you raise your concerns with the Council or their relevant Ward Councillor directly.

However, under the terms of the Road Traffic Regulation Act 1984, local authorities are entirely responsible for the management of traffic and parking in their areas. It is possible for a local authority, therefore, to make a TRO, to allow for pavement parking if they decide it is desirable and safe to do so. Signs for indicating where footway parking is allowed are available in TSRGD. Guidance on the use of these signs is also available to local authorities in the Traffic Signs Manual Chapter 3 Section 8. Links to these documents can be found below:

<http://www.legislation.gov.uk/ukxi/2002/3113/contents/made>

<https://www.gov.uk/government/publications/traffic-signs-manual>

You may also wish to be aware, many of the rules in the Highway Code are legal requirements, and if you disobey these rules you are committing a criminal offence. You may be fined, given penalty points on your licence or be disqualified from driving. In the most serious cases you may be sent to prison. Such rules are identified by the use of the words **MUST/MUST NOT**. The introduction to the Code makes clear The Highway Code may be used in evidence in any court proceedings under the Traffic Acts to establish liability. This includes rules which use advisory wording such as 'should/should not' or 'do/do not'.

With regard to the issue of obstructive parking, it is a general offence to park in such a way as to cause danger or obstruction (Highway Code Rule 242 "You **MUST NOT** leave your vehicle or trailer in a dangerous position or where it causes any unnecessary obstruction of the road"). Drivers are advised about pavement parking in Rule 244 of the Highway Code.

It is a general offence to park in such a way as to cause danger or obstruction, and in most cases those who, for example, park across a driveway obstructing the entrance to a property or who park across a drop-down kerb at a junction will be committing that offence and will be liable to be charged accordingly. Enforcement of the law relating to dangerous or obstructive parking is a matter for the Police. It is for the Police to decide whether an obstruction is being caused based on the circumstances in which the vehicle is parked.

I hope this reply has clarified the issue.

Yours sincerely,

*Sheila Kissoon*

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